

## **§ 1439.4**

## **7 CFR Ch. XIV (1-1-07 Edition)**

### **§ 1439.4 Liens and claims of creditors.**

Any payment or benefit or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government.

### **§ 1439.5 Assignments of payments.**

Payments that are earned by a person under this part may be assigned in accordance with the provisions of part 1404 of this chapter and the applicable FSA or CCC forms for assignments.

### **§ 1439.6 Appeals.**

Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at parts 780 and 11 of this title.

### **§ 1439.7 Misrepresentation, scheme or device.**

A person shall be ineligible to receive assistance under any program under this part, and be subject to such other remedies as may be allowed by law, if, with respect to such program, it is determined by the State committee or the county committee or an official of FSA that such person has:

(a) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;

(b) Made any fraudulent representation with respect to such program; or

(c) Misrepresented any fact affecting a program determination.

### **§ 1439.8 Refunds to CCC; joint and several liability.**

(a) In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to CCC, together with interest as determined in accordance with paragraph (b) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons with a financial interest in the operation or in an application for payment shall be jointly and severally liable for any refund, including related charges, that is determined to be due CCC for any reason under this part.

(c) Interest shall be applicable to refunds required of the livestock owner or other party receiving assistance or a payment if CCC determines that payments or other assistance were provided to the owner and the owner was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges CCC for funds, as of the date CCC made such benefits. Such interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date of repayment or the date interest increases in accordance with part 1403 of this chapter. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the livestock owner or other individual or entity receiving benefits.

(d) Interest otherwise determined due in accordance with paragraph (c) of this section may be waived with respect to refunds required of the owner or other program recipient because of unintentional misaction on the part of the owner or other individual or entity, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in part 1403 of this chapter.

(f) Individuals or entities who are a party to any program operated under this part must refund to CCC any excess payments made by CCC with respect to such program.

(g) In the event that any request for assistance or payment under this part was established as a result of erroneous information or a miscalculation, the assistance or payment shall be recomputed and any excess refunded with applicable interest.

### **§ 1439.9 Cumulative liability.**

The liability of any person for any penalty under this part or for any refund to CCC or related charge arising

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in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

### § 1439.10 Benefits limitation.

The total amount of benefits that a person, as determined in accordance with part 1400 of this chapter, shall be entitled to receive under any subpart may not exceed \$40,000 for any one loss or year. Also, the Deputy Administrator may take such action as needed, whether or not specifically provided for, to avoid a duplication of benefits under the several programs provided for in this part and may impose such cross-program payment limitations as may be consistent with the intent of this section and this part.

### § 1439.11 Gross revenue limitation.

A person, as defined in part 1400 of this chapter, who has annual gross revenue in excess of \$2.5 million shall not be eligible to receive assistance under this part. For the purpose of this determination, annual gross revenue means:

(a) With respect to a person who receives more than 50 percent of such person's gross income from farming and ranching, the total gross revenue received from such operations; and

(b) With respect to a person who receives 50 percent or less of such person's gross income from farming and ranching, the total gross revenue from all sources.

### § 1439.12 Maintenance of books and records.

Livestock producers or any other individual or entity seeking or receiving assistance under this part shall maintain and retain financial books and records that will permit verification of all transactions with respect to the provisions of this part for at least 3 years following the end of the calendar year in which assistance was provided, or for such additional period as CCC may request. Destruction of records after that date shall be at the risk of the producer or other person receiving assistance. An examination of such books and records by a duly authorized

representative of the United States Government shall be permitted at any time during business hours.

## Subpart B—2003–2004 Livestock Assistance Program

SOURCE: 70 FR 16394, Mar. 31, 2005, unless otherwise noted.

### § 1439.100 Administration.

(a) The regulations in this subpart provide for what will be referred to as the 2003/2004 Livestock Assistance Program (LAP) which will be administered under the general supervision and direction of the Executive Vice President, Commodity Credit Corporation (CCC), and the Deputy Administrator for Farm Programs, Farm Service Agency (FSA). In the field, the regulations in this part will be administered by FSA State and county committees.

(b) The FSA State executive directors, county executive directors, and State and county committees do not have the authority to modify or waive any of the provisions in this part unless specifically authorized by the Deputy Administrator.

(c) The FSA State committee may take any action authorized or required by this part to be taken by the FSA county committee that has not been taken by such committee, such as:

(1) Correct or require a FSA county committee to correct any action taken by such committee that is not in accordance with this part; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this part.

(d) No delegation herein to an FSA State or county committee shall preclude the Executive Vice President, CCC, or a designee, or the Deputy Administrator from determining any question arising under this part or from reversing or modifying any determination made by an FSA State or county committee.

(e) Data furnished by the applicants will be used to determine eligibility for program benefits. Although participation in the 2003/2004 LAP is voluntary, program benefits will not be provided unless the participant furnishes all requested data.